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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF SECRETARY

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June 28, 1996


Mr. William F. Caton
Acting Secretary
Federal Communications Commission
Washington, D.C. 20554

Re: Notice of Proposed Rulemaking
CC Docket No. 96-128

Dear Mr. Secretary:

Enclosed find the original and six copies of the Initial Comments of the Midwest Independent Coin Payphone Association in the above Docket.

Very truly yours,



Willard C. Reine

WCR/af

Enclosures

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Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF SECRETARY

In the Matter of

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Implementation of the

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CC Docket No. 96-128

Pay Telephone Reclassification

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and Compensation Provisions of the

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Telecommunications Act of 1996

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**INITIAL COMMENTS OF THE
MIDWEST INDEPENDENT COIN PAYPHONE ASSOCIATION**

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Dated: June 28, 1996

**Before the
FEDERAL COMMUNICATIONS COMMISSION
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**INITIAL COMMENTS OF THE
MIDWEST INDEPENDENT COIN PAYPHONE ASSOCIATION**

The Midwest Independent Coin Payphone Association ("MICPA") submits the following comments in response to the Federal Communications Commission's ("FCC") Notice of Proposed Rulemaking in this matter, released on June 6, 1996.

SUMMARY

The MICPA applauds the FCC and Congress for recognizing the ability to develop full and effective competition in the payphone industry by making the connection between the elimination of subsidies to the payphone companies that are price leaders in the industry (the LECs), and the development of a system by which payphone providers are no longer subsidizing nonpresubscribed carriers for subscriber 1-800 calls and operator service calls. The MICPA also commends the FCC for recognizing the connection between eliminating these subsidies as the mechanism to reduce the price for presubscribed operator service calls. By issuing this NPRM at the same time the FCC evaluates the Second Further Notice of Proposed Rulemaking in CC Docket No. 92-77, *In the Matter of Billed Party Preference for InterLATA 0+ Calls*, the FCC will hopefully develop an industry-wide structure whereby all PPOs receive fair compensation on all calls, thereby reducing the need for subsidies from presubscribed 0+ carriers to cover the costs not recovered because of inadequate compensation on nonpresubscribed interLATA and

intraLATA calls. This structure is ultimately the mechanism that will reduce the price of presubscribed operator service calls.

ARGUMENT

A. COMPENSATION FOR EACH AND EVERY COMPLETED INTRASTATE AND INTERSTATE CALL ORIGINATED BY PAYPHONES.

The NPRM notes that the Telecommunications Act of 1996 (hereinafter the "1996 Act") requires the FCC to ensure that PSPs are fairly compensated for all calls originated by their payphones, and requests comments on what "fair" compensation is intended to mean within the context of the 1996 Act. The NPRM correctly concludes that "fair" compensation relates to all calls (coin, nonpresubscribed operator service calls, etc.) not just calls where the payphone provider already is being compensated. The NPRM further recognizes, correctly, that competitive market forces ensure a "fair" rate of compensation for presubscribed operator service calls:

Currently, PPOs and non-BOC LECs receive compensation, pursuant to individual contracts, from the payphone's presubscribed IXC for all "0+" calls. IXCs have long competed for this type of business. Therefore, we tentatively conclude that we need not prescribe per-call compensation for 0+ calls **because competition in this area ensures "fair" compensation for PSPs.**

The Commission must now follow this logic through by setting a "fair" rate of compensation for nonpresubscribed calls (subscriber 1-800 and operator service calls) at rates that approximate a competitive market rate. The large nonpresubscribed IXCs (like AT&T and MCI) control the "buyers" market of nonpresubscribed operator service calls. These carriers advertise to their end users to "dial around" the presubscribed carrier in an effort to obtain traffic, and have learned that it is significantly cheaper to advertise to end users to dial around, and pay the PSP

\$0.25 per call (the current rate) than compensate the payphone provider a "fair" market-based rate of compensation.

Consequently, a rate of compensation that is set at or below cost, will create distortions in the market, especially in those states where the rates for local coin calls are priced below costs. Unless the Commission adopts a "fair" (i.e. rate greater than cost) rate of compensation for subscriber 1-800 calls and nonpresubscribed operator service calls, PSPs in most states will be faced with the following scenario:

1. Local coin calls at rates that do not cover the LRSIC of a call;
2. Subscriber 1-800 calls that either do not cover the LRSIC of a call, or just barely cover the LRSIC of a call (with no contribution to cover common expenses or overhead);
3. Nonpresubscribed operator service calls that either do not cover the LRSIC of a call, or just barely cover the LRSIC of a call (with no contribution to cover common expenses or overhead);
4. Compensation from presubscribed operator service providers (which currently subsidizes the revenue shortfalls from 1, 2, and 3 above) which will decline to no longer be able to subsidize the revenue shortfalls from 1, 2, and 3 above; and
5. 1+ coin calls whose prices will increase to subsidize all other shortfall in revenue.

This scenario could virtually cripple an industry before it even has had the opportunity to develop. The FCC must continue its initiative and adopt a fair rate of compensation at a level greater than cost.

B. THE RATE FOR NONPRESUBSCRIBED OPERATOR SERVICE CALLS AND SUBSCRIBER 1-800 CALLS.

The MICPA proposes that the FCC adopt a rate of compensation that 1) exceeds cost, and 2) is at a level based on the value which IXC's place on having their (the IXC's') customers complete calls through the use of the PSPs' services and facilities.

C. THE IXCs SHOULD COMPENSATE PAYPHONE PROVIDERS AND THEN DETERMINE FOR THEMSELVES HOW TO RECOVER THEIR COSTS.

The NPRM requests comment on whether the FCC should adopt a "carrier-pays" mechanism for compensation, or should adopt a "set use fee" mechanism whereby the end users have surcharges imposed on their bills. The Commission should adopt the "carrier-pays" mechanism whereby the carriers compensate PSPs for the use of the PSPs' services and facilities, and then determine for themselves how to recover their costs. The payment to PSPs of fair compensation is merely one of many cost elements which IXC's and OSPs must account for in their decision to price a call to end users.

The set-use fee mechanism inappropriately entangles end users in the business arrangements between telecommunications carriers. When LECs and IXC's compensate each other for the use of each others facilities, the compensation is done "behind the scenes" without surcharges, access fees, and set use fees listed out separately on an end user's bill. Similarly, when an IXC sends its customer a bill, the IXC should have the responsibility for pricing its calls at rates which cover its costs, without separately listing each cost element relating to transactions with other carriers.

The carrier-pays mechanism not only reduces the transactions costs, but also reduces customer confusion. This industry is about to embark on a very dynamic transition where

customers have more options, more choices, and more freedom to choose carriers. These freedoms will also lead to more information which customers will have to dissect to determine these carriers. The Commission will set a dangerous precedent by recommending a scheme whereby telecommunications carriers start disclosing their cost elements as "surcharges" or "set use fees" which are allegedly collected by other carriers. Compensation to PSPs is nothing more than a cost to the IXC's which they (prior to the Commission requiring a flat \$6.00 per phone per month compensation) had not been paying.

The Commission should reject any notion of a "set use fee" and adopt a "carrier-pays" compensation mechanism that builds on existing procedures.

D. THE ABILITY OF CARRIERS TO TRACK CALLS FROM PAYPHONES IS NO LONGER IN ISSUE.

It is clear from previous proceedings at the FCC that IXC's have the ability to identify the number of compensable calls made from payphones by tracking the calls it receives from an ANI. By matching the information of calls coming into its network, and maintaining originating-ANI information, carriers can identify the number of calls which must be compensated to that ANI. The only administration involved then is matching the ANI to the entity who is entitled to be compensated.

The FCC should maintain the existing procedure whereby the IXC's are responsible for tracking the number of compensable calls. The IXC that ultimately is responsible for billing the end users may be the only carrier involved in the call that can and does maintain the information of 1) the originating ANI, 2) the terminating ANI, 3) the length of the call, and 4) whether the call was completed. Along the physical completion of a call, there may be several telecommunications carriers involved in making the connection from the originating ANI to the

terminating ANI: the originating payphone, the originating LEC (which now could be a reseller of a facilities-based LEC), the originating IXC to whose POP a call is transmitted (even the originating IXC could be a reseller of a facilities-based IXC), through a series of interconnecting carriers, ultimately to the terminating LEC and terminating ANI. Each of these carriers could be involved in the completion of the call. The carrier responsible for billing the customer should be responsible for identifying the originating payphone ANI, and compensating the entity who claims that ANI.

E. THE CURRENT ADMINISTRATION OF COMPENSATION BETWEEN CARRIERS IS GROSSLY DEFECTIVE.

The current mechanism being employed by the IXCs to compensate payphone providers is extremely defective and prejudicial to payphone providers. The IXCs have unilaterally developed a payment plan whereby they determine the rules on who gets compensated, which calls they will compensate without some dispute procedure by the payphone provider, and when the compensation is paid. The Commission must modify the existing structure to develop a more equitable compensation procedure. Although the MICPA agrees with the NPRM that direct billing is the preferred procedure, the FCC must modify the existing direct billing procedure to 1) shorten the time before a completed call is compensated and 2) eliminate the heavy-handed burdens imposed on PSPs by the IXCs before a call is compensated.

Currently the IXCs which are required to pay compensation for interstate OSP calls require the following steps before a call is compensated:

1. A call made on January 1, 1996 is received and tracked by the IXC.
2. The IXCs will not accept a claim for that call until May 1, 1996.

3. The IXC's will not process the claim until they receive verification from a LEC that the originating ANI was a payphone. LEC verifications are due by May 30, 1996.
4. The IXC's take approximately one month to process the claims for the January 1, 1996 call. The "processing" is completed by June 30, 1996.
5. Payment is delivered to the payphone provider on about July 10, 1996.

Along this arduous route, there are mechanisms built in by the IXC procedures by which they unilaterally determine a call will not be compensated. For example, some IXC's have unilaterally determined that if the LEC does not send any positive or negative information to confirm whether the claimed ANI is a payphone, the IXC's dispute the PSP's claim for compensation. However, the IXC does not notify the PSP until over 6 months after the call that the LEC did not provide information to verify the ANI was a payphone.

In addition, under the dispute procedures adopted by the IXC's, the payphone provider cannot receive compensation on the ANI until the payphone provider gets a letter from the LEC (that did not provide any verification information to the IXC) confirming the ANI is a payphone. Even assuming the payphone provider sends the IXC a LEC bill for monthly service, the IXC's continue to insist upon a letter from the LEC.

The time lag alone is a procedure that the FCC must cure. There is no other procedure in the telecommunications industry where a carrier is required to wait up to six months to receive compensation from interconnecting carriers. If a payphone provider uses AT&T's services and facilities to complete the payphone provider's 1+ traffic, AT&T is usually paid within 60 days of the first call (AT&T bills monthly, and expects payment within 30 days). However, where the payphone provider is entitled to compensation, AT&T and the other IXC's

have developed a procedure whereby they do not pay until over 6 months from the first date of traffic.

The FCC must force the IXC's to adopt a more equitable procedure to compensate PSP's. First, the quarterly schedule for paying compensation must be shortened to a monthly system. The primary delay in compensation is caused by the delay is the IXC's waiting for the LEC verification information. The LEC verification should not be used by the IXC's as an excuse to delay compensation. The IXC's can still obtain LEC verification if they choose, but the compensation should not be delayed while the IXC's wait for verification (payphone providers do not request verification from LEC's on whether access fees were paid to confirm the bills sent by the IXC for 1+ calls.)

The FCC should require the IXC's to adopt a schedule that is more in line with the industry standard:

1. If a call is made on January 1, 1996, the PSP submits its list of compensable ANI's to the IXC's on February 1, 1996.
2. The IXC's match the ANI with its call records, and compensate the PSP's on about March 10, 1996.
3. If the IXC's wish to verify that the ANI was a "payphone" ANI, it can do so at its leisure, and make any adjustments to future compensation payments.

By shortening the "quarterly" compensation period to a monthly period, and then adopting the NPRM's recommendation that the IXC's not wait for LEC verification every period, the compensation for calls automatically falls in line with the industry practice. More importantly, the procedures for the compensation owed by PSP's to IXC's for 1+ calls is the same as the procedures for compensation owed by IXC's to PSP's.

CONCLUSION

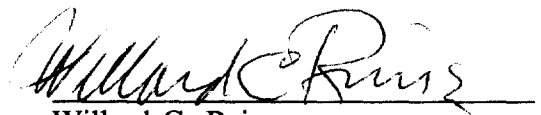
The FCC's NPRM has gone to great strides to develop an industry based on equitable and fair treatment of PSPs. The Commission can assure that the entire payphone industry is properly structured by adopting these recommendations by the IPTA:

1. Set a fair rate of compensation per call for completed operator service calls and subscriber 1-800 calls;
2. Require the IXC's to track and identify those calls that are compensable;
3. Require the IXC's to compensate PSPs on a monthly basis rather than a quarterly basis.

Respectfully submitted,

MIDWEST INDEPENDENT
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